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OEA**

SERVICE DATE – JUNE 21, 2016

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

STB Docket No. AB 290 (Sub-No. 381X)

**Norfolk Southern Railway Company – Abandonment Exemption –
in Hamilton County, Ohio**

BACKGROUND

In this proceeding, the Norfolk Southern Railway Company (“NSR”) filed a petition under 49 U.S.C. § 10502 seeking exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon 4.10 miles of rail line extending from milepost CT 3.7 to milepost CT 7.8 in Hamilton County, Ohio (the Line). A map depicting the Line is attached to this Environmental Assessment (EA).

If the petition becomes effective, NSR would be able to salvage track, ties, and other railroad appurtenances and to dispose of the right-of-way. NSR states that the Line does not contain federally granted rights-of-way.

In addition to an exemption from the provisions of 49 U.S.C. § 10903, NSR seeks an exemption from the offer of financial assistance (OFA) procedures of 49 U.S.C. § 10904. NSR states that it is seeking the OFA exemption as it intends to sell the property to the City of Cincinnati (City) for a redevelopment project with significant public benefits. NSR believes that the OFA process would impede its effort to sell the Line to the City.

ENVIRONMENTAL REVIEW

NSR submitted an environmental report that concludes the quality of the human environment would not be affected significantly due to the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. NSR served the environmental report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board’s (Board) environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board’s Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

¹ The Environmental and Historic Reports are available for viewing on the Board’s website at www.stb.dot.gov by going to “E-Library,” selecting “Filings,” and then conducting a search for AB 290 (Sub-No. 381X).

Diversion of Traffic

According to NSR, the Line has been dormant since the closure of the Norwood Transload Bulk Terminal over five years ago. NSR believes there is no reasonable prospect for future use of the Line as no rail freight or passenger traffic has moved on the Line since 2000 and no new shippers have sought rail service. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could cause significant impacts to air quality or the local transportation network.

The Line right-of-way width ranges from 50 to 100 feet and includes ten bridges. Photographs of each of the bridges are included in the applicant's historic report. The bridges include two steel bridges at mileposts CT 4.39 and CT 4.40, three concrete bridges located at mileposts CT 4.82, CT 6.32, and CT 6.72; two open-deck plate girder bridges at mileposts CT 7.21 and CT 7.39; two thru-plate girder bridges at mileposts CT 7.53 and CT 7.78; and one ballast bridge at milepost CT 7.76.

The Line, constructed in the 19th century, was once part of the Cincinnati and Eastern Railway. The Norfolk and Western Railway, a predecessor to NSR, purchased the Line in 1904.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and re-grading of the right-of-way. Salvage may be performed within the right-of-way, or if necessary, via construction of new access points to the right-of-way.

NSR writes that it intends to salvage rail and track material from the Line following abandonment. The railroad asserts that the existing roadbed and the current drainage system will remain in place. NSR does not plan to remove the ballast and no digging will occur beyond the present surface. NSR intends to resell the steel track material and either reuse the crossties or dispose of them according to state or federal regulations. NSR has no plans to conduct in-stream dredging activities or engage in work that would result in water quality impacts.

The Line is located within the City near major highways, hospitals, schools, shopping centers, restaurants and many other amenities. According to NSR, the City is eager to acquire the Line and include the property in a comprehensive redevelopment plan for the area. The plan is designed to reduce/reroute vehicular traffic, create greenways, and provide alternative transportation options for urban commuters.

NSR is not interested in negotiating trails use or sell the Line to any other party, as it would conflict with the City's redevelopment plan for the Line. NSR believes that the proposed project is wholly in keeping with an important public use.

The Ohio Department of Transportation (DOT) sent a letter to NSR regarding the

disposition of bridges that cross over Interstate Route (IR) 71 at mileposts CT 4.39 and CT 4.40 and the bridge that crosses over US Route 50. In its comments, the Ohio DOT requested information from NSR regarding which parties would be responsible for securing the bridges and maintaining the structures following abandonment. The Ohio DOT expressed concern regarding the possible unauthorized use and vandalism of the bridges as well as the safety of motorists travelling on the roads below. NSR contacted the Ohio DOT in response to its letter and confirmed that the City would be responsible for the bridges upon its purchase of the Line. The Ohio DOT indicated to OEA that it was satisfied with this result but requested copies of bridge agreements that would affirm the City's intent to secure the bridges following sale of the Line. NSR has affirmed to OEA that it will send copies of the bridge agreements to the Ohio DOT once the sale of the Line to the City is finalized.

Hamilton County and the City have advised NSR that the proposed abandonment is consistent with their existing and future land use plans.

According to NSR, the Line right-of-way and areas immediately adjacent to the Line do not contain known hazardous waste, spills or hazardous sites.

The United States Environmental Protection Agency Region 5 (EPA Region 5), Storm Water Coordinator, urged NSR to contact the Ohio Environmental Protection Agency (OEPA) regarding the need for a National Pollution Discharge Elimination System (NPDES) permit as OEPA has permitting authority over water quality impacts in the state of Ohio. Thereupon, NSR contacted OEPA regarding any permitting requirements of the proposed abandonment. OEPA indicated that a general NPDES permit is not required as long as land disturbance activities, including grading activities following abandonment, amount to less than one acre.

The U.S. Army Corps of Engineers (ACOE), Huntington District Office, has indicated that the proposed abandonment (ACOE File No. LRH-2015-879-OHR) would not require a Department of Army permit as the project would not result in discharge of fill material into waters of the United States.

The Natural Resources Conservation Service affirmed that the proposed abandonment would not affect prime farmlands.

The Ohio Coastal Management Program has provided comments stating that the proposed abandonment does not lie within a designated coastal zone and federal consistency review is not required.

The U.S. Fish and Wildlife Service (FWS) states that the project is not located within or near federal wilderness areas, wildlife refuges or designated critical habitat. Furthermore, FWS writes that the proposed abandonment is not the type of project that would adversely affect federally endangered or threatened species.

The National Geodetic Survey has not commented on the location of any geodetic station markers within the right-of-way of the proposed abandonment.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

OEA has not received responses from several federal agencies including the National Geodetic Survey regarding potential environmental impacts from the proposed abandonment. OEA is therefore sending a copy of this EA to those agencies for review and comment.

HISTORIC REVIEW

NSR submitted an historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the Ohio State Historic Preservation Office (SHPO) pursuant to 49 C.F.R. § 1105.8(c).

The SHPO provided its opinion regarding potential effects to historic properties for this undertaking pursuant to Section 106 of the National Historic Preservation Act, 54 U.S.C. § 306108. In its comments, the SHPO writes that the proposed abandonment action would have no effect on any significant historic properties within or near the project as no removal of track or structures is planned. The SHPO stated that no further coordination with its office is necessary. OEA has therefore determined that the undertaking, as currently described, would have “**No potential to Affect Historic Properties**” as defined at 36 CFR 800.3(a)(1).

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally recognized tribes that may have current or ancestral connections to the project area.² The database identified the Delaware Nation, Oklahoma, the Miami Tribe of Oklahoma and the Peoria Tribe of Indians of Oklahoma as having a possible interest in the project area. OEA is providing a copy of this EA to the above tribes for comment.

CONDITIONS

We do not recommend the imposition of any conditions with any decision granting abandonment authority.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, abandonment of the Line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

² Native American Consultation Database, <http://grantsdev.cr.nps.gov/Nagpra/NACD/> (last visited May 20, 2016).

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite 4-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trails use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. The Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29). In its environmental report, NSR indicates it is unwilling to negotiate interim trails use/rail banking as it intends to sell the property underlying the Line to the City following any abandonment approval.

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Catherine Nadals, who prepared this Environmental Assessment. Environmental comments can also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 290 (Sub-No. 381X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Catherine Nadals, the environmental contact for this case, by phone at (202) 245-0293, fax at (202) 245-0454, or e-mail at nadalsc@stb.dot.gov.

Date made available to the public: June 21, 2016.

Comment due date: July 21, 2016.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment